

### **E) REMARKS**

This Response is filed in response to the Office Action dated June 1, 2006.

Upon entry of this Amendment, claims 1-26 will be pending in the Application.

In the outstanding Office Action, the Examiner subjected claims 1-26 to a restriction requirement under 35 U.S.C. § 121.

#### **Restriction/Election under 35 U.S.C. 121**

The Office Action of June 1, 2006 subjects claims 1-26 of the present Application to a restriction requirement. The Examiner has required restriction to one of the following inventions under 35 U.S.C. § 121:

- I. Claims 1-24, drawn to a convertible garment, classified in class 2, subclass 86.
- II. Claim 25, drawn to a convertible flexible container, classified in class 224, subclass 575.
- III. Claim 26, drawn to a method of incorporating a dual access cargo system for use with a convertible garment, classified in class 128, subclass 898.

In accordance with the requirements of 37 C.F.R. § 1.143, Applicant provisionally elects the invention of Group I with traverse, without prejudice to file divisional application(s).

Applicant respectfully traverses the requirements for restriction and requests reconsideration of the restriction requirement between Groups I, II and III. Applicant submits that the restriction requirement should be withdrawn, because the Examiner has not shown that any combination of Groups I, II and III are not both independent and distinct, as the claims must be shown to be "independent and distinct" to maintain the restriction, 35 U.S.C. § 121, 37 C.F.R. § 1.141, MPEP 802. Additionally, it would not be an undue burden on the Examiner to search and examine the inventions, as even multiple art classes/subclasses are routinely searched when applications are examined (see MPEP 803). For example, any search of a convertible garment could be reasonably extended to include methods of incorporating a dual access cargo system for use with the convertible garment. A thorough search of the art would therefore include such art.

In addition, the Examiner has stated that if group I is selected, that an election of species is required between:

a) Figures 1-4: detailing a dual access cargo system having a first material portion affixed to the outer surface of the shell.

b) Figures 10-13: detailing a dual access cargo system having a plurality of first material portions affixed to the outer surface of the shell.

c) Figure 14: detailing a dual access cargo system having a plurality of material portions affixed to the outer side and inside surface of the shell with access devices.

The Examiner further requires a listing of all claims readable on the selected specie.

In accordance with the requirements of 37 C.F.R. § 1.143, Applicant provisionally elects specie a) of the invention. Additionally, the Examiner has required Applicant to identify a listing of the claims readable upon the selected specie a). In response thereto, Applicant identifies that claims 1-18, 19-22, 24 and 25 read upon specie a).

Finally, the Examiner has stated that if group I is selected, that an election of species is required between each of the following categories:

A) The form of the garment portion: (see claims 9-14)

B) The first material portion is affixed to either the inside of the outside surface of the shell (see claims 23 and 24).

C) The carrying means is secured to the first chamber for carrying or the second chamber for carrying (see claims 3 and 4).

In accordance with the requirements of 37 C.F.R. § 1.143, Applicant provisionally elects species from the following categories:

category A): the form of the body portion is upper body wear (e.g., claim 9);

category B): the first material portion is affixed to the inside surface (e.g., claim 23); and

category C): the carrying means is secured to the second chamber for carrying (e.g., claim 4) of the invention.

In summary, Applicant provisionally elects the invention of Group I, species a) and the above identified species for each of categories A)-C).

**CONCLUSION**

In summary, it is respectfully submitted that for the reasons given above the restriction requirement between the inventions as set forth in claims 1-26 (Groups I, II and III, species a)-c) and categories A)-C)) should be examined and the restriction requirement reconsidered and withdrawn by the Examiner. Further, it is respectfully submitted that claims 1-26 are novel defining patentable subject matter and should be allowed. A favorable action is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees and credit any overpayments to Deposit Account No. 50-1059.

Respectfully submitted,

McNEES, WALLACE & NURICK LLC

By     /K. Scott O'Brian/  
          K. Scott O'Brian  
          Reg. No. 42,946  
          100 Pine Street, P.O. Box 1166  
          Harrisburg, PA 17108-1166  
          Tel: (717) 237-5492  
          Fax: (717) 237-5300

Dated: June 22, 2006